

**BOARD OF SUPERVISORS
BUSINESS MEETING
ACTION ITEM**

SUBJECT: **Scope of Work and Procurement of Consultant Services to Revise the Noise Standards of the Revised 1993 Loudoun County Zoning Ordinance**

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the pleasure of the Board

STAFF CONTACTS: Theresa M. Stein, Planner, Zoning Administration
Mark Stultz, Deputy Zoning Administrator
Nicole C.E. Dozier, Zoning Administrator
Julie Pastor, FAICP, Director, Planning and Zoning

PURPOSE: The purpose of this item is to approve the draft scope of work and to move forward to procure consultant services to revise the noise standards in the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance).

RECOMMENDATION: Staff recommends that the Board of Supervisors (Board) approve the draft Scope of Work and authorize staff to proceed with the procurement process to hire a consultant for the purposes of amending the noise standards of the Zoning Ordinance.

BACKGROUND: As part of the review of Zoning Ordinance Amendment (ZOAM) 2013-0003, Data Center and Miscellaneous Commercial/Industrial Amendments (Data Center ZOAM), the Board authorized the hiring of a noise consultant to assist the Transportation and Land Use Committee (TLUC) in making a recommendation to the full Board regarding appropriate noise standards to consider as part of the Data Center ZOAM. The firm of Miller, Beam & Paganelli, Inc. was retained to provide a presentation, including a question and answer period, at the January 10, 2014 TLUC Meeting. As explained during the TLUC presentation, certain noise standards of the Zoning Ordinance could be revised to clarify and specify certain elements, such as the location from which sound is measured. The Zoning Ordinance Action Group (ZOAG) Data Center report of February 18, 2014 recommended that the Board consider initiating a review of the noise standards of the Zoning Ordinance to determine if it should be amended.

At the June 4, 2014 Board Business Meeting, and as part of the Strategic Plan Update, the Board directed staff to prepare scoping/workplan documents for the initiatives in queue and new initiatives (8-0-1, Higgins- Absent). Pursuant to the Board's direction as discussed at the June 4,

2014 Business Meeting, staff has prepared a Scope of Work (Attachment 1) and Work Plan (Attachment 2), and requests that the Board authorize staff to proceed with the procurement process to hire a consultant for the purpose of revising the noise standards of the Zoning Ordinance. If the Board directs staff to proceed, staff will issue a Request for Quotation (RFQ) in July 2014, with award of the contract expected by mid-September 2014. Staff anticipates the public review and adoption process by the Board to be completed prior to June 30, 2015 for this work effort.

ISSUES: Within the last four years, there have been over 40 noise complaints received by Zoning Enforcement. The noise complaints were related to data centers and typical commercial noise that is an annoyance to adjacent residential property owners, such as “excessive” noise from day care centers, utility stations, churches, and construction that does not violate the Zoning Ordinance. Data center noise makes up 70% of the complaints, the bulk of which were received in 2014. Data center noise is typically generated by fans used to regulate equipment temperature, as well as testing of back-up generators. The majority of data center noise complaints received in 2014 was a result of greater public awareness due to the Data Center ZOAM process. The majority of the complaints, both data center and commercial annoyance, resulted in no violations being issued as the specific instances either complied with the current Zoning Ordinance noise standards, or were of a non-stationary nature. The current noise standards regulate continuous noise as measured at the noise source property boundary.

The Town of Leesburg has similar requirements to Loudoun and limits noise at the residential lot line. Fauquier County’s regulations limit the maximum permitted sound level in or adjacent to residential districts depending on the frequency of the noise, measured in cycles per second. Additionally, the regulations contain a maximum permitted decibel for impact noise in residential districts. Prince William County’s noise standards regulate the maximum weighted decibels at the property boundary or at any point within any other property affected by the noise during the daytime and nighttime based on zoning district classification. Fairfax County recently amended their Noise Ordinance and are currently proposing additional changes. Currently, Fairfax regulates stationary noise measured at the property line or at any point within a property affected by the noise and is based on a sliding scale, predicated on land use.

In order to address annoyance complaints within the County, greater restrictions on the hours of construction noise and special events/entertainment could be effective; however, as the County continues to grow, there will be more conflicts between residential property owners and commercial development. Amending the point of measurement of noise in order to deal with topography, as well as how sound is measured and acceptable decibels levels for various zoning districts is a critical part of the research proposed to be conducted by the consultant and will assist in the development of best practices for measurement and to bring the County in-line with surrounding jurisdictions.

Staff does not anticipate any issues with the procurement and RFQ process.

FISCAL IMPACT: The consultant is expected to provide full professional services to assist staff with the Scope of Work. The consultant would be responsible for all primary activities and

deliverables with overall coordination by a County Project Manager assigned to the initiative. The cost for consultant services is estimated to not exceed \$85,000. Approximately 1.0 FTE from the Department of Planning and Zoning would be dedicated for the duration of the effort along with support from other departments as needed.

ALTERNATIVES:

1. Approve the attached Scope of Work and authorize Staff to proceed with the procurement process to hire a consultant to review and prepare amendments to the noise standards of the Zoning Ordinance.
2. Do not proceed with any amendments to the noise standards of the Zoning Ordinance at this time.

DRAFT MOTIONS:

1. I move that the Board of Supervisors approve the Scope of Work, which includes preparation of draft amendments to the noise standards within the Revised 1993 Loudoun County Zoning Ordinance, as provided as Attachment 1 to the Action Item for the July 16, 2014, Board of Supervisors Business Meeting.

AND

I further move to authorize staff to proceed with the procurement process for the purpose of hiring a consultant to review and recommend revisions to the noise standards of the Revised 1993 Loudoun County Zoning Ordinance.

OR

2. I move an alternate motion.

ATTACHMENTS:

1. Scope of Work
2. Work Plan

Amendments to Noise Standards in Revised 1993 Loudoun County Zoning Ordinance

Scope of Work

	Task	Activities	Deliverables	Phase Timeline
Phase 1 Zoning Discovery	Research	<ol style="list-style-type: none"> 1. Review County noise standards. 2. Review noise standards utilized in other jurisdictions nationwide 3. Review noise standards from other Virginia jurisdictions 4. Evaluate “best practices for implementation in Loudoun County. 	<ol style="list-style-type: none"> 1. Written report on Loudoun noise standards as compared to other VA jurisdictions 2. Written summary and compilation of “best practices” 	October – December, 2014
	Zoning Analysis	<ol style="list-style-type: none"> 1. Analyze existing and potential regulations. 		
Phase 2 Draft Amendments	Draft Amendments	<ol style="list-style-type: none"> 1. Prepare and submit draft text amendments to County Zoning Staff for review and refinement. 2. Revise draft text based on Zoning staff comments 	<ol style="list-style-type: none"> 1. Draft text amendments to the <u>Revised 1993 Zoning Ordinance</u> 	January – February, 2015
	Referral process	<ol style="list-style-type: none"> 1. Distribute draft text to Referral Agents for Comment. 		
Phase 3 Public Review and Adoption Process	Final Draft Document Review	<ol style="list-style-type: none"> 1. Prepare final draft text amendments based on Referral comments. 	<ol style="list-style-type: none"> 1. Finalize draft amendments. 	February 2015
	Public Review	<ol style="list-style-type: none"> 1. Board Business Meeting for the Resolution of Intent to Amend Action Item with Draft Amendments. 2. Planning Commission public hearing and work session(s). 3. Update text based on Planning Commission recommendation. 4. Board public hearing and committee meeting(s). 5. Update text based on Board comments. 6. Board Business Meeting for final action. 	<ol style="list-style-type: none"> 1. Board Action Item with Resolution of Intent to Amend. 2. Planning Commission Public Hearing Staff Report and Work Session document(s). 3. Board Public Hearing Staff Report with revised text and Committee document(s) 4. Board Action Item and Final Text. 	February – June, 2015

**Work Plan for Amending the Noise Standards in the
Revised 1993 Loudoun County Zoning Ordinance**

DATE	ACTIVITY
July 16	Board authorizes procurement process
July 17 – September 2014	Begin RFP process/advertise
October 2014	Hire consultant; begin review of Ordinance
November 2014	Consultant report on progress
December 2014	Review consultant recommendations and proposed Ordinance changes
January 2015	Revise Ordinance and 30-day referral goes out to County Departments and ZOAG
January 2015	Referral due
February 2015	Text refinement
February 2015	Resolution of Intent to Amend to BOS Business Meeting
March 2015	Planning Commission Public Hearing
April 2015	Planning Commission Recommendation
May 2015	BOS Public Hearing
June 2015	BOS Action